IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH,
AT HYDERABAD

THE HON'BLE MR JUSTICE A.GOPAL REDDY
and
THE HON'BLE MR JUSTICE P.SWAROOP REDDY

TAKEN UP WRIT PETITION NO : 24171 of 1996

Date: 01.10.2007

Between:

Smt. K. Sugunamma

..... PETITIONER

AND

1. Sri Kondaiah, I.P.F. C/o.Railway Protection Force, Tirupathi, Chittoor District, and others.

.....RESPONDENTS

ORAL ORDER: (per Hon'ble Sri Justice A. Gopal Reddy)

The telegram sent by Smt. K. Sugunamma, mother of the alleged detenu, namely, K. Prakash Babu, alleging that her son was kidnapped and illegally detained by Sri Kondaiah, I.P.F. Railway Protection Force, since 04.11.1996 midnight, is taken up as writ petition and issued notices to the respondents.

By order dated 21.11.1996, the I Additional District Judge, Ananthapur, was directed to conduct enquiry with regard to the illegal detention of the alleged detenu and to record the statements of the concerned persons, and submit a report.

Accordingly, the I Additional District Judge, Ananthapur submitted a report, against which the respondents filed objections stating that the I Additional District Judge had not summoned the relatives of PW.2, the alleged detenu, viz., one Kalappa,Selvaraj and Mastan for the authentication of factum of kidnap and ignored the fact that even as per the evidence of PW.2 the police, Tirupathi, took a bond from the alleged detenu on 05.11.1996 for his good behaviour and when once such a bond is taken, in the normal course, there would be no detention as the bonds would be taken at the time of release. Considering the objection by order dated 11.03.1997 this Court directed the district Judge to record the statements of the above persons and submit a report.

Thereafter, the enquiry officer-cum- I Additional District and Sessions Judge, Ananthapur submitted a detailed report on 19.04.1997 stating that the witnesses namely, S. Masthan, D. Kalappa, D.Selvaraj and Mr. Ramakrishna, M.L.A., were examined by him as PWs.4 to 7,

who did not support the case of PW.1-Sugunamma that her son- PW.2 was taken away by the Railway Protection Force from the house of PW.4-Masthan. PW.5-Dalappa and PW.6-D.Selvaraj, father of Kalappa, have also not supported the case of PW.1. Mr. K. Ramakrishna, M.L.A., who was examined as PW.7 deposed that he did not remember the particulars of PW.1 approaching him to find out whereabouts of her son PW.2. As an M.L.A. of the constituency PW.1 might have approached him and he might have telephoned Dharmavaram Railway Police Station to find out the whereabouts of PW.2. He also stated that he could not remember whether he telephoned to Dharmavaram Railway Police Station and informed PW.1 that her son was not available at Dharmavaram Railway Police Station. The respondent who was present at the time of recording the depositions of the above witnesses represented the Court that there is no cross-examination. The evidences of the above witnesses have been enclosed along with the report.

PW.1, who was examined by the learned Judge, categorically stated that on 09.11.1996 her son returned to the house at night-time. Thereafter, the Magistrate visited her house and recorded her statement and the statement of her son K. Prakash Babu. In the cross-examination she stated that she came to know through Masthan, who is the friend of her son that her son was taken away by two constables of Railway Protection Force on 4.11.1996. She also stated that Sri Kondaiah, C.I. of Police had not visited her house and taken custody of her son.

In view of the contradictory statements given by the petitioner in her evidence as PW.1 about the detention of the alleged detenu, and the other witnesses PWs.4 to 7 have not supported the case of the petitioner, and that the alleged detenu was released, no cause survives in the writ petition.

Accordingly, the Writ Petition is dismissed granting liberty to the petitioner to proceed against officers responsible for detention for

compensation, if any. There shall be no order as to costs.

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(A. GOPAL REDDY, J.)

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(P. SWAROOP REDDY, J.)

1st October, 2007
Js.